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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/284,698	07/15/1999	YOSUKE KIMOTO	SONYJP-3.3-0	2686

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EXAMINER

GRANT, CHRISTOPHER C

ART UNIT

PAPER NUMBER

2611

DATE MAILED: 05/22/2003

23

Please find below and/or attached an Office communication concerning this application or proceeding.

37

Office Action Summary

Application No.

09/284,698

Applicant(s)

KIMOTO, YOSUKE

Examiner

Christopher Grant

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Young et al. (Young).

Considering claims 1 and 4, Young discloses a receiver (figure 22A) for receiving broadcast signals multiplexed with program guide information including at least information on the broadcast times of programs and corresponding method, the receiver comprising:

a) receiving means (202) for receiving frequency division multiplexed signals (col. 17, lines 7-30);

b) separation means (222) for separating the program guide information in the multiplexed signals from the broadcast signals; and

c) production means (228,232,238) for producing a retrieval table consisting of a plurality of time slots (11:00, 11:30, 12:00, figures 1-3 and 5-6) each having predetermined length (e.g. 1 hour, ½ hour etc.) and for allocating each program (Golden Girls, News, Inside Edition etc.) to at least one of the plural time slots (11:00, 11:30, 12:00) based on the broadcast time of the program (see col. 17, lines 31-38, 45-50).

Claims 2 and 5 are met by the production of movie programs (figure 14), sport programs (figure 15) and special programs (figure 16).

3. Claims 1, 3-4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Monta et al. (Monta).

Considering claims 1 and 4, Monta discloses a receiver (figure 2) for receiving broadcast signals multiplexed with program guide information including at least information on the broadcast times of programs and corresponding method, the receiver comprising:

- a) receiving means for receiving frequency division multiplexed video signals (col. 1, lines 13-50 and col. 4, lines 32-47);
- b) separation means (1) for separating the program guide information in the multiplexed signals from the broadcast signals; and
- c) production means (5,6) for producing a retrieval table consisting of a plurality of time slots (8:00, 9:00....1:00, 2:00, figure 3) each having predetermined length (e.g. 1 hour) and for allocating each program (News, Theater, Stories etc.) to at least one of the plural time slots (8:00, 9:00....1:00, 2:00, figure 3) based on the broadcast time of the program (col. 1, line 65 – column 2, line 52).

Claims 3 and 6 are met by the storage (3), input means (4), execution means (5) and processing means (6) (see the entire reference including but not limited to col. 5, lines 3-23).

Response to Arguments

4. Applicant's arguments filed 3/25/2003 have been fully considered but they are not persuasive.

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Response to Applicant's arguments

a) Applicant argues that **“The Young reference fails to disclose a receiver or a method for retrieving broadcast signals where the retrieval table is produced with time slots having predetermined lengths of time and then allocating programs of varying lengths into the time slots where the allocation of the programs is determined by, or based on, the broadcast time of the programs but the time slots are not derived from or dependent upon the program times”** on page 2 (last paragraph) of request for reconsideration filed 3/25/2003.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., allocating programs of varying length into the time slots) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Moreover, claim 1 recites **“...production means for producing a retrieval table consisting of a plurality of time slots each having a predetermined length of time, and for allocating each program to at least one of the plurality of time slots based on the broadcast time of the program”**.

Young discloses production means (228,232,238) for producing a retrieval table consisting of a plurality of time slots (11:00, 11:30, 12:00, figures 1-3 and 5-6) each having predetermined length (e.g. 1 hour, ½ hour etc.). Applicant should note that claim 1 does not recite that the time slots are fixed or variable.

Young discloses allocating each program (Golden Girls, News, Inside Edition etc. – figure 3) to at least one of the plural time slots (11:00, 11:30, 12:00) based on the broadcast time

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of the program (see col. 17, lines 31-38, 45-50). From the above information, the Examiner concludes the following:

- Golden Girls is allocated to 11:00 AM with a ½ hour predetermined length based on the broadcast time (11:00 AM) of the program,
- News is allocated to 11:30 AM with a ½ hour predetermined length based on the broadcast time (11:30 AM) of the News program,
- Inside Edition is allocated to 12:00 PM with a ½ hour predetermined length based on the broadcast time (12:00 AM) of the program.

The Examiner reminds Applicant that a claim is construed by its ordinary meaning to a person of ordinary skill in the art. For the reasons given above, the Examiner posits that Applicant's arguments are not persuasive.

b) Applicant describes the current invention and pointed to several passages and figures in the instant application on page 3 of the request for re-consideration.

In response, the Examiner agrees that the invention appears to be different from the Young reference but that the claims do not recite the differences.

c) Applicant argues that **"The Monta reference does not discloses or suggest the creation of a plurality of time slots having predetermined lengths of time and then allocating each program to at least one of the plurality of time slots"** on page 5 (first paragraph) of request for reconsideration filed 3/25/2003.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., **the creation of a plurality of time slots having predetermined lengths of time and then allocating each program to at least one of the plurality of time slots**) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Moreover, claim 1 recites “...**production means for producing a retrieval table consisting of a plurality of time slots each having a predetermined length of time, and for allocating each program to at least one of the plurality of time slots based on the broadcast time of the program**”.

Monta discloses production means (5,6) for producing a retrieval table consisting of a plurality of time slots (8:00, 9:00....1:00, 2:00, figure 3) each having predetermined length (e.g. 1 hour). Therefore, Monta discloses time slots each having 1 hour.

Monta discloses allocating each program (News, News, Tennis) to at least one of the plural time slots (8:00, , 9:00....1:00, 2:00, figure 3) based on the broadcast time of the program (col. 1, line 65 – column 2, line 52). From the above information, the Examiner concludes the following:

- News is allocated to time slot 9:00 for ½ hour within the 1 hour predetermined length based on the broadcast time (9:00) of the News program,
- News is allocated to time slot 1:00 for ½ hour within the 1 hour predetermined length based on the broadcast time (1:00) of the News program,

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- Tennis is allocated to time slot 2:00 for a ½ hour within the 1 predetermined length based on the broadcast time (2:00) of the Tennis program.

Again, the Examiner reminds Applicant that a claim is construed by its ordinary meaning to a person of ordinary skill in the art. For the reasons given above, the Examiner posits that Applicant's arguments are not persuasive.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Grant whose telephone number is (703) 305 4755.

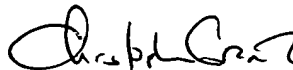
The examiner can normally be reached on Monday-Friday 8:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872 9314 for regular communications and (703) 872 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Christopher Grant
Primary Examiner
Art Unit 2611

CG
May 21, 2003